

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WINSTON E. HYMAN,

Plaintiff,

vs.

COUNTY OF ALBANY, ALBANY COUNTY SHERIFF'S OFFICE, CRAIG APPLE, Sheriff, in his individual and official capacities, FORMER SUPERINTENDENT THOMAS WIGGER, in his individual and official capacities, CHIEF BRIAN MOONEY, in his individual and official capacities, CHRISTOPHER B. ABRAMS, in his individual and official capacities, JARROD M. JOURDIN, in his individual and official capacities, LANNY JENSEN, in his individual and official capacities, SERGEANT TIMOTHY FRANCIS, in his individual and official capacities, OFFICER JULIE HALL, in her individual and official capacities, OFFICER MATTHEW COREY, in his individual and official capacities, OFFICER TIMOTHY KEHN, in his individual and official capacities, OFFICER DENNIS GALKIEWICZ, in his individual and official capacities, OFFICER JAMES SHEEDY, in his individual and official capacities, SERGEANT JOHN CRUDO, in his individual and official capacities, LIEUTENANT WILLIAM FITCH, in his individual and official capacities, NURSE CHRISTINE MORIARTY, NURSE PATRICIA FRASER, NURSE RICHARD KOWALSKI, NURSE MARA RIVERA, NURSE LORI HORN, NURSE CARLY LAGACE, AZAZ HAIDER-SHAH, M.D., facility physician, CORRECTIONAL MEDICAL CARE, INC., individually and as an agent/employee of the County of Albany,

Defendants.

**ANSWER TO PLAINTIFF'S FIRST
AMENDED COMPLAINT**

Case No.: 9:13-CV-770 (NAM/ATB)

Defendants, CORRECTIONAL MEDICAL CARE, INC., AZAZ HAIDER-SHAH, M.D., PATRICIA FRASER, R.N., CHRISTINE MORIARTY, L.P.N. and CARLY LAGACE, L.P.N., by and through their attorneys, Smith, Sovik, Kendrick & Sugnet, P.C., hereby answers plaintiff's Amended Complaint as follows:

1. **DENY** the allegations contained in paragraph "1" of plaintiff's Amended Complaint.

2. Paragraph "2" of plaintiff's Amended Complaint contains legal conclusions. No response is required. To the extent a response is required, defendants **ADMIT** that this Court has jurisdiction to adjudicate plaintiff's claims.

3. **ADMIT** the allegations contained in paragraph "3" of plaintiff's Amended Complaint.

4. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of plaintiff's Amended Complaint.

5. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "5" of plaintiff's Amended Complaint.

6. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "6" of plaintiff's Amended Complaint.

7. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "7" of plaintiff's Amended Complaint.

8. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "8" of plaintiff's Amended Complaint.

9. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "9" of plaintiff's Amended Complaint.

10. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "10" of plaintiff's Amended Complaint.

11. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "11" of plaintiff's Amended Complaint.

12. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "12" of plaintiff's Amended Complaint.

13. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "13" of plaintiff's Amended Complaint.

14. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "14" of plaintiff's Amended Complaint.

15. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "15" of plaintiff's Amended Complaint.

16. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "16" of plaintiff's Amended Complaint.

17. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "17" of plaintiff's Amended Complaint.

18. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "18" of plaintiff's Amended Complaint.

19. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "19" of plaintiff's Amended Complaint.

20. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "20" of plaintiff's Amended Complaint.

21. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "21" of plaintiff's Amended Complaint.

22. Defendants **ADMIT** that Nurse Moriarty is employed by Correctional Medical Care, Inc., and her duties include rendering medical treatment to inmates housed at the Albany County Correctional Facility. Otherwise, defendants **DENY** the allegations contained in paragraph "22" of plaintiff's Amended Complaint.

23. Defendants **ADMIT** that Nurse Fraser is employed by Correctional Medical Care, Inc., and her duties include rendering medical treatment to inmates housed at the Albany County Correctional Facility. Otherwise, defendants **DENY** the allegations contained in paragraph "23" of plaintiff's Amended Complaint.

24. In response to the allegations contained in paragraph "24" of plaintiff's Amended Complaint, defendants **ADMIT** that Nurse Kowalski was employed by Correctional Medical Care, Inc., however, **DENY** that Nurse Kowalski remains so employed.

25. In response to the allegations contained in paragraph "25" of plaintiff's Amended Complaint, defendants **ADMIT** that Nurse Rivera was employed by Correctional Medical Care, Inc., however, **DENY** that Nurse Rivera remains so employed.

26. In response to the allegations contained in paragraph "26" of plaintiff's Amended Complaint, defendants **ADMIT** that Nurse Horn was employed by Correctional Medical Care, Inc., however, **DENY** that Nurse Horn remains so employed.

27. Defendants **ADMIT** that Nurse Lagace is employed by Correctional Medical Care, Inc., and her duties include rendering medical treatment to inmates housed at the Albany County Correctional Facility. Otherwise, defendants **DENY** the allegations contained in paragraph "27" of plaintiff's Amended Complaint.

28. Defendants **ADMIT** that defendant, Shah, was employed by Correctional Medical Care, Inc., at the relevant times listed in plaintiff's Complaint; however, **DENY** that defendant, Shah, remains so employed. Defendants otherwise **ADMIT** the remaining allegations in paragraph "28" of plaintiff's Amended Complaint.

29. **ADMIT** the allegations contained in paragraph "29" of plaintiff's Amended Complaint.

30. Paragraph "30" of plaintiff's Amended Complaint contains legal conclusions. No response is required. To the extent a response is required, defendants **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "30" of plaintiff's Amended Complaint.

31. Paragraph "31" of plaintiff's Amended Complaint contains legal conclusions. No response is required. To the extent a response is required, defendants **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "31" of plaintiff's Amended Complaint.

32. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "32" of plaintiff's Amended Complaint.

33. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "33" of plaintiff's Amended Complaint.

34. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "34" of plaintiff's Amended Complaint.

35. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "35" of plaintiff's Amended Complaint.

36. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "36" of plaintiff's Amended Complaint.

37. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "37" of plaintiff's Amended Complaint.

38. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "38" of plaintiff's Amended Complaint.

39. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "39" of plaintiff's Amended Complaint.

40. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "40" of plaintiff's Amended Complaint.

41. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "41" of plaintiff's Amended Complaint.

42. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "42" of plaintiff's Amended Complaint.

43. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "43" of plaintiff's Amended Complaint.

44. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "44" of plaintiff's Amended Complaint.

45. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "45" of plaintiff's Amended Complaint.

46. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "46" of plaintiff's Amended Complaint.

47. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "47" of plaintiff's Amended Complaint.

48. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "48" of plaintiff's Amended Complaint.

49. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "49" of plaintiff's Amended Complaint.

50. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "50" of plaintiff's Amended Complaint.

51. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "51" of plaintiff's Amended Complaint.

52. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "52" of plaintiff's Amended Complaint.

53. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "53" of plaintiff's Amended Complaint.

54. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "54" of plaintiff's Amended Complaint.

55. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "55" of plaintiff's Amended Complaint.

56. **DENY** the allegations contained in paragraph "56" of plaintiff's Amended Complaint.

57. **DENY** the allegations contained in paragraph "57" of plaintiff's Amended Complaint.

58. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "58" of plaintiff's Amended Complaint.

59. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "59" of plaintiff's Amended Complaint.

60. **DENY** the allegations contained in paragraph "60" of plaintiff's Amended Complaint.

61. **DENY** the allegations contained in paragraph "61" of plaintiff's Amended Complaint.

62. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "62" of plaintiff's Amended Complaint.

63. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "63" of plaintiff's Amended Complaint.

64. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "64" of plaintiff's Amended Complaint.

65. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "65" of plaintiff's Amended Complaint.

66. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "66" of plaintiff's Amended Complaint.

67. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "67" of plaintiff's Amended Complaint.

68. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "68" of plaintiff's Amended Complaint.

69. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "69" of plaintiff's Amended Complaint.

70. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "70" of plaintiff's Amended Complaint.

71. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "71" of plaintiff's Amended Complaint.

72. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "72" of plaintiff's Amended Complaint.

73. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "73" of plaintiff's Amended Complaint.

74. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "74" of plaintiff's Amended Complaint.

75. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "75" of plaintiff's Amended Complaint.

76. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "76" of plaintiff's Amended Complaint.

77. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "77" of plaintiff's Amended Complaint.

78. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "78" of plaintiff's Amended Complaint.

79. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "79" of plaintiff's Amended Complaint.

80. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "80" of plaintiff's Amended Complaint.

81. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "81" of plaintiff's Amended Complaint.

82. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "82" of plaintiff's Amended Complaint.

83. **DENY** the allegations contained in paragraph "83" of plaintiff's Amended Complaint.

84. **DENY** the allegations contained in paragraph "84" of plaintiff's Amended Complaint.

85. **DENY** the allegations contained in paragraph "85" of plaintiff's Amended Complaint.

86. To the extent the allegation in paragraph "86" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "86."

87. To the extent the allegation in paragraph "87" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "87."

88. **ADMIT** the allegations contained in paragraph "88" of plaintiff's Amended Complaint.

89. To the extent the allegation in paragraph "89" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "89." Defendants **ADMIT** that plaintiff received appropriate medical care.

90. To the extent the allegation in paragraph "90" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "90." Defendants **ADMIT** that plaintiff received appropriate medical care.

91. To the extent the allegation in paragraph "91" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "91." Defendants **ADMIT** that plaintiff received appropriate medical care.

92. To the extent the allegation in paragraph "92" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "92." Defendants **ADMIT** that plaintiff received appropriate medical care.

93. To the extent the allegation in paragraph "93" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "93." Defendants **ADMIT** that plaintiff received appropriate medical care.

94. To the extent the allegation in paragraph "94" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "94." Defendants **ADMIT** that plaintiff received appropriate medical care.

95. **DENY** the allegations contained in paragraph "95" of plaintiff's Amended Complaint.

96. To the extent the allegation in paragraph "96" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "96." Defendants **ADMIT** that plaintiff received appropriate medical care.

97. To the extent the allegation in paragraph "97" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "97." Defendants **ADMIT** that plaintiff received appropriate medical care.

98. To the extent the allegation in paragraph "98" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "98." Defendants **ADMIT** that plaintiff received appropriate medical care.

99. To the extent the allegation in paragraph "99" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "99." Defendants **ADMIT** that plaintiff received appropriate medical care.

100. To the extent the allegation in paragraph "100" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "100." Defendants **ADMIT** that plaintiff received appropriate medical care.

101. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "101" of plaintiff's Amended Complaint.

102. To the extent the allegation in paragraph "102" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "102." Defendants **ADMIT** that plaintiff received appropriate medical care.

103. To the extent the allegation in paragraph "103" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "103." Defendants **ADMIT** that plaintiff received appropriate medical care.

104. To the extent the allegation in paragraph "104" of plaintiff's Amended Complaint infers that defendants did not provide appropriate medical care, defendants **DENY** those allegations contained in paragraph "104." Defendants **ADMIT** that plaintiff received appropriate medical care.

105. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "105" of plaintiff's Amended Complaint.

106. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "106" of plaintiff's Amended Complaint.

107. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "107" of plaintiff's Amended Complaint.

108. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "108" of plaintiff's Amended Complaint.

109. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "109" of plaintiff's Amended Complaint.

110. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "110" of plaintiff's Amended Complaint.

111. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "111" of plaintiff's Amended Complaint.

112. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "112" of plaintiff's Amended Complaint.

113. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "113" of plaintiff's Amended Complaint.

114. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "114" of plaintiff's Amended Complaint.

115. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "115" of plaintiff's Amended Complaint.

116. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "116" of plaintiff's Amended Complaint.

117. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "117" of plaintiff's Amended Complaint.

118. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "118" of plaintiff's Amended Complaint.

119. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "119" of plaintiff's Amended Complaint.

120. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "120" of plaintiff's Amended Complaint.

121. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "121" of plaintiff's Amended Complaint.

122. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "122" of plaintiff's Amended Complaint.

123. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "123" of plaintiff's Amended Complaint.

124. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "124" of plaintiff's Amended Complaint.

125. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "125" of plaintiff's Amended Complaint.

126. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "126" of plaintiff's Amended Complaint.

127. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "127" of plaintiff's Amended Complaint.

128. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "128" of plaintiff's Amended Complaint.

129. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "129" of plaintiff's Amended Complaint.

130. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "130" of plaintiff's Amended Complaint.

131. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "131" of plaintiff's Amended Complaint.

132. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "132" of plaintiff's Amended Complaint.

133. **REPEAT and REALLEGE** the admissions and denials as set forth hereinabove contained in paragraphs "1" through "132" of plaintiff's Amended Complaint.

134. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "134" of plaintiff's Amended Complaint.

135. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "135" of plaintiff's Amended Complaint.

136. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "136" of plaintiff's Amended Complaint.

137. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "137" of plaintiff's Amended Complaint.

138. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "138" of plaintiff's Amended Complaint.

139. **REPEAT and REALLEGE** the admissions and denials as set forth hereinabove contained in paragraphs "1" through "138" of plaintiff's Amended Complaint.

140. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "140" of plaintiff's Amended Complaint.

141. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "141" of plaintiff's Amended Complaint.

142. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "142" of plaintiff's Amended Complaint.

143. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "143" of plaintiff's Amended Complaint.

144. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "144" of plaintiff's Amended Complaint.

145. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "145" of plaintiff's Amended Complaint.

146. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "146" of plaintiff's Amended Complaint.

147. **REPEAT and REALLEGE** the admissions and denials as set forth hereinabove contained in paragraphs "1" through "146" of plaintiff's Amended Complaint.

148. Paragraph "148" of plaintiff's Amended Complaint contains plaintiff's interpretation of law. No response is required.

149. **DENY** the allegations contained in paragraph "149" of plaintiff's Amended Complaint.

150. **DENY** the allegations contained in paragraph "150" of plaintiff's Amended Complaint.

151. Paragraph "151" of plaintiff's Amended Complaint contains irrelevant, inflammatory and palpably improper allegations that have no bearing on plaintiff's claims in this action. No response is required.

152. Paragraph "152" of plaintiff's Amended Complaint contains irrelevant, inflammatory and palpably improper allegations that have no bearing on plaintiff's claims in this action. No response is required.

153. **DENY** the allegations contained in paragraph "153" of plaintiff's Amended Complaint.

154. **DENY** the allegations contained in paragraph "154" of plaintiff's Amended Complaint.

155. **DENY** the allegations contained in paragraph "155" of plaintiff's Amended Complaint.

156. **REPEAT and REALLEGE** the admissions and denials as set forth hereinabove contained in paragraphs "1" through "155" of plaintiff's Amended Complaint.

157. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "157" of plaintiff's Amended Complaint.

158. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "158" of plaintiff's Amended Complaint.

159. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "159" of plaintiff's Amended Complaint.

160. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "160" of plaintiff's Amended Complaint.

161. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "161" of plaintiff's Amended Complaint.

162. **REPEAT and REALLEGE** the admissions and denials as set forth hereinabove contained in paragraphs "1" through "161" of plaintiff's Amended Complaint.

163. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "163" of plaintiff's Amended Complaint.

164. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "164" of plaintiff's Amended Complaint.

165. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "165" of plaintiff's Amended Complaint.

166. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "166" of plaintiff's Amended Complaint.

167. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "167" of plaintiff's Amended Complaint.

168. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "168" of plaintiff's Amended Complaint.

169. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "169" of plaintiff's Amended Complaint.

170. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "170" of plaintiff's Amended Complaint.

171. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "171" of plaintiff's Amended Complaint.

172. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "172" of plaintiff's Amended Complaint.

173. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "173" of plaintiff's Amended Complaint.

174. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "174" of plaintiff's Amended Complaint.

175. **DENY KNOWLEDGE OR INFORMATION** sufficient to form a belief as to the truth of the allegations contained in paragraph "175" of plaintiff's Amended Complaint.

176. Paragraph "176" of plaintiff's Amended Complaint contains conclusions of law. No response is required. To the extent a response is required, defendants **DENY** the allegations contained in paragraph "176" of plaintiff's Amended Complaint.

177. Paragraph "177" is plaintiff's demand for a jury trial. No response is necessary.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

178. That whatever damages may have been sustained at the time and place alleged in the Amended Complaint by plaintiff were caused, in whole or in part, by the culpable conduct of the plaintiff and must be reduced proportionally to the culpable conduct of the plaintiff.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

179. That the equitable share of liability, if any, of the parties, shall be determined pursuant to the provisions of Articles 14 and 16 of the CPLR.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

180. Pursuant to Section 15-108 of the General Obligations Law, in the event this Court finds the defendant liable, in whole or in part, to the plaintiff, and in the event the plaintiff

has released or recovered against some other party for any damages resulting from the incident which is the subject of this Amended Complaint, the plaintiff's recovery from the defendant should be diminished in the proportion that the culpable conduct attributed to others bears to the culpable conduct which caused the alleged injuries or damages, or in the amount of the prior settlement or verdict, whichever is greater.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

181. That one or more causes of action in the Amended Complaint fail to state a cause of action upon which relief may be granted.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

182. That plaintiff has not met the conditions precedent to the commencement of this action as required by law.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

183. Plaintiff has failed to mitigate his alleged damages claimed herein.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

184. The amount of alleged damages claimed by plaintiff should be reduced pursuant to CPLR §4545 to the extent of any collateral source benefits, remuneration or compensation received.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

185. Plaintiff cannot maintain his claim for exemplary or punitive damages as against this defendant because he has failed to plead the ultimate facts necessary to support such a claim.

AS AND FOR AN NINTH AFFIRMATIVE DEFENSE

178. The plaintiff sustained the injuries or damages alleged, then said injuries and damages are proximally caused by persons and/or entities not connected with the defendant and currently unknown to defendant.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

179. If the plaintiff sustained the injuries and damages as alleged, then said injuries and damages resulted from the plaintiff's knowing and voluntary assumption of the risk.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE

180. That any claims for punitive damages contained in the Amended Complaint fail to state a claim upon which relief may be granted, violate various provisions of the Constitution of the United States and the State of New York, and violate various statutory proscriptions thereof.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

181. That defendant denies that it is liable in any way to plaintiff under any legal theory because of the doctrine of immunity, whether qualified, sovereign, statutory or otherwise.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

182. That plaintiff is not entitled to recover damages in this action under 42 U.S.C. §1983.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

183. That this defendant reserves the right to amend its answer and/or affirmative defenses that may be determined applicable in the future by discovery in this matter.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

184 Plaintiff has failed to exhaust his administrative remedies and, as such, his claim is barred.

AS AND FOR AN SIXTEENTH AFFIRMATIVE DEFENSE

185. The defendant's actions were taken in good faith and pursuant to constitutional and statutory authority. Accordingly, the defendant has committed no wrongful act of any nature resulting in a violation of plaintiff's federal or state constitutional rights.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

186. That no policy, statement, ordinance, regulation or decision officially adopted and/or formulated by defendant or otherwise ratified by defendant authorized a deprivation of plaintiff's constitutional rights.

AS AND FOR A EIGHTEENTH AFFIRMATIVE DEFENSE

187. Answering defendant alleges that in treating the plaintiff, the medical providers at the Facility exercised their best medical judgment.

JURY DEMAND

188. Demand is made for a jury trial on all issues.

WHEREFORE, defendants, CORRECTIONAL MEDICAL CARE, INC., AZAZ HAIDER-SHAH, M.D., PATRICIA FRASER, R.N., CHRISTINE MORIARTY, L.P.N. and

CARLY LAGACE, L.P.N. demand judgment dismissing the Amended Complaint herein, together with the costs and disbursements of this action.

Dated: July 25, 2014

SMITH, SOVIK, KENDRICK & SUGNET, P.C.



Daniel R. Ryan, Esq.

(Bar Roll No.: 513902)

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